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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Parts 100 and 165

[Docket No. USCG-2014-0540]

RIN 1625-AA08, AA00

Special Local Regulations for Marine Events and Safety
Zone, Patapsco River; Baltimore, MD

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to establish temporary regulations in certain waters of the Patapsco River. This action is necessary to provide for the safety of life on navigable waters before, during, and after the "Baltimore Air Show," which consists of aerial practices, performance demonstrations and air shows. The event, scheduled as part of the Star-Spangled 200 activities at Baltimore, Maryland, will be held over certain waters of the Patapsco River from September 11, 2014, through September 14, 2014. This action will restrict vessel traffic in portions of the Patapsco River during the event.

DATES: Comments and related material must be received by the Coast Guard on or before **[INSERT DATE 30 DAYS AFTER**

DATE OF PUBLICATION IN THE FEDERAL REGISTER]. The Coast Guard anticipates that this proposed rule will be effective from September 11, 2014 through September 14, 2014.

ADDRESSES: You may submit comments identified by docket number using any one of the following methods:

(1) Federal eRulemaking Portal:

<http://www.regulations.gov>.

(2) Fax: 202-493-2251.

(3) Mail: Docket Management Facility (M-30), U.S. Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE, Washington, DC 20590-0001. Deliveries accepted between 9 a.m. and 5 p.m., Monday through Friday, except federal holidays. The telephone number is 202-366-9329.

See the "Public Participation and Request for Comments" portion of the SUPPLEMENTARY INFORMATION section below for further instructions on submitting comments. To avoid duplication, please use only one of these three methods.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or e-mail Mr. Ronald Houck, U.S. Coast Guard Sector Baltimore, MD; telephone 410-576-2674, e-mail Ronald.L.Houck@uscg.mil. If you have questions on viewing or submitting material to the docket, call Cheryl Collins, Program Manager, Docket Operations, telephone (202) 366-

9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

DHS	Department of Homeland Security
FR	Federal Register
NPRM	Notice of proposed rulemaking

A. Public Participation and Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related materials. All comments received will be posted without change to <http://www.regulations.gov> and will include any personal information you have provided.

1. Submitting comments

If you submit a comment, please include the docket number for this rulemaking, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online at <http://www.regulations.gov>, or by fax, mail, or hand delivery, but please use only one of these means. If you submit a comment online, it will be considered received by the Coast Guard when you successfully transmit the comment. If you fax, hand deliver, or mail your comment, it will be considered as having been received by the Coast Guard when

it is received at the Docket Management Facility. We recommend that you include your name and a mailing address, an e-mail address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

To submit your comment online, go to <http://www.regulations.gov>, type the docket number [USCG-2014-0540] in the "SEARCH" box and click "SEARCH." Click on "Submit a Comment" on the line associated with this rulemaking.

If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period and may change the rule based on your comments.

2. Viewing comments and documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, type the docket number (USCG-2014-0138) in the "SEARCH" box and click "SEARCH." Click on Open Docket Folder on the line associated with this

rulemaking. You may also visit the Docket Management Facility in Room W12-140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

3. Privacy Act

Anyone can search the electronic form of comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review a Privacy Act notice regarding our public dockets in the January 17, 2008, issue of the Federal Register (73 FR 3316).

4. Public meeting

We do not now plan to hold a public meeting. But you may submit a request for one, using one of the methods specified under ADDRESSES. Please explain why you believe a public meeting would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the Federal Register.

B. Regulatory History and Information

This rule involves an air show that will take place over the Patapsco River in Baltimore, Maryland on September

13, 2014 and September 14, 2014 and will attract thousands of spectators on the Patapsco River. This rule also involves a designated on-water spectator area associated with the air show. The current regulations under 33 CFR 100 address safety for reoccurring marine events. This marine event does not appear in the current regulations; however, as it is a regulation to provide effective control over regattas and marine parades on the navigable waters of the United States so as to insure safety of life in the regatta or marine parade area, this marine event therefore needs to be temporarily added.

C. Basis and Purpose

The legal basis for the rule is the Coast Guard's authority to establish special local regulations: 33 U.S.C. 1233, and to establish safety zones: 33 U.S.C. 1231.

The purpose of the rule is to provide for the safety of participants, spectators, and transiting vessels from the potential hazards associated with an air show, such as aircraft accidents, dangerous projectiles, hazardous materials spills and falling debris. This rule is necessary to ensure safety of life on navigable waters of the United States before, during and after the scheduled Baltimore Air Show event.

D. Discussion of Proposed Rule

The Star Spangled 200, Inc. is sponsoring the "Baltimore Air Show" on September 13, 2014 and September 14, 2014. The public event will consist of military and civilian aircraft performing low-flying, high-speed precision maneuvers and aerial stunts over specified waters of the Patapsco River and navigable channels in Baltimore Harbor. In addition to the air show dates, military and civilian aircraft performing in the air show will conduct practice and demonstration maneuvers and stunts over specified waters of the Patapsco River and navigable channels in Baltimore Harbor on September 11, 2014 and September 12, 2014. A large spectator fleet is anticipated for the event, as part of the Star Spangled 200 activities.

Through this regulation, the Coast Guard proposes to establish a temporary regulated area. The proposed regulated area will encompass all waters of the Patapsco River, within an area bounded by a line connecting position latitude 39°16'00"N, longitude 076°36'30"W; thence to latitude 39°16'00"N, longitude 076°33'00"W; thence to latitude 39°14'30"N, longitude 076°33'00"W; thence to latitude 39°14'30"N, longitude 076°36'30"W; thence to the point of origin, located between Port Covington and Seagirt Marine Terminal at Baltimore, MD. Within the regulated area is a designated spectator area for commercial

passenger vessels. The spectator area includes all waters of the Patapsco River, located between the northern boundary of the regulated area described in paragraph (a)(1) of this section at latitude $39^{\circ}16'00''\text{N}$, thence southerly to the northern boundary of the safety zone represented by a line connecting position latitude $39^{\circ}15'44''\text{N}$, longitude $076^{\circ}35'55''\text{W}$; to position latitude $39^{\circ}15'19''\text{N}$, longitude $076^{\circ}33'25''\text{W}$, located adjacent to the Fort McHenry National Monument and Historic Shrine at Baltimore, MD. This regulated area will be enforced from 10 a.m. to 6 p.m. each day from September 11, 2014 through September 14, 2014.

Through this regulation, the Coast Guard also proposes to establish a safety zone. The proposed safety zone encompasses the aerobatic show box, approximately 12,000 feet long and 3,000 feet wide, and is located within the regulated area. The temporary safety zone includes all waters of the Patapsco River, located within an area bounded by a line connecting position latitude $39^{\circ}15'44''\text{N}$, longitude $076^{\circ}35'56''\text{W}$; to latitude $39^{\circ}15'19''\text{N}$, longitude $076^{\circ}33'26''\text{W}$; thence to latitude $39^{\circ}14'49''\text{N}$, longitude $076^{\circ}33'35''\text{W}$; thence to latitude $39^{\circ}15'15''\text{N}$, longitude $076^{\circ}36'04''\text{W}$; thence to point of origin. Access to the safety zone will be restricted during the specified dates

and times. Except for vessels authorized by the Captain of the Port or his designated representative, no person or vessel may enter or remain in the safety zone. U.S. Coast Guard vessels will be provided to enforce the safety zone. The Captain of the Port Baltimore will issue Broadcast Notices to Mariners to publicize the safety zone and notify the public of changes in the status of the zone. Such notices will continue until the event is complete.

E. Regulatory Analyses

We developed this proposed rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on a number of these statutes or executive orders.

1. Regulatory Planning and Review

This proposed rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders.

The economic impact of this rule is not significant for the following reasons: The primary impact of these regulations will be on vessels wishing to transit the affected waterways during activities associated with the Baltimore Air Show beginning on September 11, 2014 and ending on September 14, 2014. Although these regulations prevent traffic from transiting a portion of the Patapsco River during this event, that restriction is limited in duration, affects only a limited area, and will be well publicized to allow mariners to make alternative plans for transiting the affected area. Moreover, the magnitude of the event itself will severely hamper or prevent transit of the waterway, even absent these regulations designed to ensure it is conducted in a safe and orderly fashion.

2. Impact on Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601-612), we have considered the impact of this proposed rule on small entities. The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule will not have a significant economic impact on a substantial number of small entities.

This rule may affect the following entities, some of which may be small entities: The owners or operators of vessels intending to enter, transit through, anchor in, or

remain within that portion of the Patapsco River encompassed within the special local regulations from 10 a.m. to 6 p.m. each day on September 11, 2014, September 12, 2014, September 13, 2014, and September 14, 2014, and encompassed within the safety zone from 10 a.m. until 6 p.m. each day on September 11, 2014, September 12, 2014, September 13, 2014, and September 14, 2014. For the reasons discussed in the Regulatory Planning and Review section above, this rule will not have a significant economic impact on a substantial number of small entities.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see ADDRESSES) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

3. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we want to assist small entities in understanding this proposed rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the FOR

FURTHER INFORMATION CONTACT, above. The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

4. Collection of Information

This proposed rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520.).

5. Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this proposed rule under that Order and determined that this rule does not have implications for federalism.

6. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the "For Further Information Contact" section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

7. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this proposed rule would not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

8. Taking of Private Property

This proposed rule would not cause a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

9. Civil Justice Reform

This proposed rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

10. Protection of Children from Environmental Health Risks

We have analyzed this proposed rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and would not create an environmental risk to health or risk to safety that might disproportionately affect children.

11. Indian Tribal Governments

This proposed rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

12. Energy Effects

This proposed rule is not a "significant energy action" under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use.

13. Technical Standards

This proposed rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

14. Environment

We have analyzed this proposed rule under Department of Homeland Security Management Directive 023-01 and Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321-4370f), and have made a preliminary determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment.

This proposed rule involves special local regulations issued in conjunction with a regatta or marine parade. This proposed rule addresses safety concerns immediately outside the aerobatic show box, including the required patrols of law enforcement and safety vessels, establishment of emergency egress routes, and designated spectator areas. This rule is categorically excluded from further review under paragraph 34(h) of Figure 2-1 of the Commandant Instruction. A preliminary environmental analysis checklist supporting this determination and a Categorical Exclusion Determination are available in the docket where indicated under ADDRESSES.

Additionally, this proposed rule involves establishing a temporary safety zone for an aerobatic show box during an

air show. The air show is scheduled over navigable waters of the United States and may have potential for negative impact on the safety or other interest of waterway users and near shore activities in the event area. This rule is categorically excluded from further review under paragraph 34(g) of Figure 2-1 of the Commandant Instruction. A preliminary environmental analysis checklist supporting this determination and a Categorical Exclusion Determination are available in the docket where indicated under ADDRESSES.

We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

List of Subjects

33 CFR Part 100

Marine safety, Navigation (water), Reporting and recordkeeping requirements, Waterways.

33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR parts 100 and 165 as follows:

PART 100--SAFETY OF LIFE ON NAVIGABLE WATERS

1. The authority citation for part 100 continues to read as follows:

Authority: 33 U.S.C. 1233.

2. Add a temporary section, § 100.35-T05-0540 to read as follows:

§ 100.35-T05-0540 Special Local Regulations for Marine Events, Patapsco River; Baltimore, MD.

(a) Regulated areas. The following regulated areas are established as special local regulations. All coordinates are North American Datum 1983.

(1) Regulated area. The following location is a regulated area: All waters of the Patapsco River, within an area bounded by a line connecting position latitude 39°16'00"N, longitude 076°36'30"W; thence to latitude 39°16'00"N, longitude 076°33'00"W; thence to latitude 39°14'30"N, longitude 076°33'00"W; thence to latitude 39°14'30"N, longitude 076°36'30"W; thence to the point of origin, located between Port Covington and Seagirt Marine Terminal at Baltimore, MD.

(2) Designated commercial passenger vessel spectator area. The following location is a spectator area within the regulated area: All waters of the Patapsco River, located between the northern boundary of the regulated area

described in paragraph (a)(1) of this section at latitude 39°16'00"N, thence southerly to the northern boundary of the safety zone represented by a line connecting position latitude 39°15'44"N, longitude 076°35'55"W; to position latitude 39°15'19"N, longitude 076°33'25"W, located adjacent to the Fort McHenry National Monument and Historic Shrine at Baltimore, MD.

(b) Definitions. (1) Coast Guard Patrol Commander means a commissioned, warrant, or petty officer of the U. S. Coast Guard who has been designated by the Commander, Coast Guard Sector Baltimore.

(2) Official Patrol means any vessel assigned or approved by Commander, Coast Guard Sector Baltimore with a commissioned, warrant, or petty officer on board and displaying a Coast Guard ensign.

(3) Participant means all persons and vessels participating in the Baltimore Air Show event under the auspices of the Marine Event Permit issued to the event sponsor and approved by Commander, Coast Guard Sector Baltimore.

(4) Spectator means all persons and vessels not registered with the event sponsor as participants or official patrol.

(c) Special local regulations. (1) The Coast Guard Patrol Commander may forbid and control the movement of all vessels and persons in the regulated area. When hailed or signaled by an official patrol, a vessel or person in the regulated area shall immediately comply with the directions given. Failure to do so may result in expulsion from the area, citation for failure to comply, or both.

(2) The Coast Guard Patrol Commander may terminate the event, or the operation of any participant in the event, at any time it is deemed necessary for the protection of life or property. The Coast Guard may be assisted in the patrol and enforcement of the regulated area by other Federal, State, and local agencies.

(3) All Coast Guard vessels enforcing this regulated area can be contacted on marine band radio VHF-FM channel 16 (156.8 MHz).

(4) Spectators are allowed inside the regulated area, but must remain outside the safety zone at all times. Only commercial passenger vessels will be permitted to anchor within the designated spectator area described in Paragraph (a)(2) of this section. Spectators may contact the Coast Guard Patrol Commander to request permission to pass through the regulated area. If permission is granted, spectators shall comply with the directions given and must

pass directly through the regulated area, outside the safety zone, at a safe speed and without loitering.

(5) The Coast Guard will publish a notice in the Fifth Coast Guard District Local Notice to Mariners and issue a marine information broadcast on VHF-FM marine band radio announcing specific event date and times.

(d) Enforcement period. This section will be enforced from 10 a.m. to 6 p.m. on September 11, 2014, from 10 a.m. to 6 p.m. on September 12, 2014, from 10 a.m. to 6 p.m. on September 13, 2014, and from 10 a.m. to 6 p.m. on September 14, 2014.

PART 165--REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

3. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05-1, 6.04-1, 6.04-6, and 160.5; Pub. L. 107-295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

4. Add temporary § 165.T05-0540 to read as follows:
§ 165.T05-0540 Safety Zone, Patapsco River; Baltimore, MD.

(a) Location. The following area is a safety zone: all waters of the Patapsco River, within an area bounded by a line connecting position latitude 39°15'44"N, longitude

076°35'56"W; to latitude 39°15'19"N, longitude 076°33'26"W; thence to latitude 39°14'49"N, longitude 076°33'35"W; thence to latitude 39°15'15"N, longitude 076°36'04"W; thence to point of origin. All coordinates reference Datum NAD 1983.

(b) Regulations. The general safety zone regulations found in 33 CFR 165.23 apply to the safety zone created by this temporary section, § 165.T05.0540.

(1) All persons are required to comply with the general regulations governing safety zones found in 33 CFR 165.23.

(2) Entry into or remaining in this zone is prohibited unless authorized by the Coast Guard Captain of the Port Baltimore or his designated representative.

(3) Persons desiring to transit the area of the safety zone must first obtain authorization from the Captain of the Port Baltimore or his designated representative. To seek permission to transit the area, the Captain of the Port Baltimore and his designated representative can be contacted at telephone number 410-576-2693 or on Marine Band Radio VHF-FM channel 16 (156.8 MHz). The Coast Guard vessels enforcing this section can be contacted on Marine Band Radio VHF-FM channel 16 (156.8 MHz). Upon being hailed by a U.S. Coast Guard vessel, or other Federal, State, or local agency vessel, by siren,

radio, flashing light, or other means, the operator of a vessel shall proceed as directed. If permission is granted, all persons and vessels must comply with the instructions of the Captain of the Port Baltimore or his designated representative and proceed at the minimum speed necessary to maintain a safe course while within the zone.

(4) Enforcement. The U.S. Coast Guard may be assisted in the patrol and enforcement of the zone by Federal, State, and local agencies.

(c) Definitions. As used in this section:

Captain of the Port Baltimore means the Commander, U.S. Coast Guard Sector Baltimore, Maryland.

Designated representative means any Coast Guard commissioned, warrant, or petty officer who has been authorized by the Captain of the Port Baltimore to assist in enforcing the safety zone described in paragraph (a) of this section.

(d) Enforcement periods. This section will be

enforced from 10 a.m. to 6 p.m. on September 11, 2014, from 10 a.m. to 6 p.m. on September 12, 2014, from 10 a.m. to 6 p.m. on September 13, 2014, and from 10 a.m. to 6 p.m. on September 14, 2014.

Dated: July 7, 2014

M. DEAN
Commander, U.S. Coast Guard
Acting Captain of the Port Baltimore

[FR Doc. 2014-17103 Filed 07/18/2014 at 8:45 am;
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